

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Suits - Arbitration Application Nos 49 & 50 of 2007 filed by M/s. BHC Agro(India) Private Limited, Andhra Pradesh, Hyderabad - Payment of fees to Sri S.Venkata Reddy, Senior Counsel as Legal Counsel and four(4) other Advocates to present the case in Arbitration Applications No. 49 & 50 of 2007, on behalf of the Government of Andhra Pradesh before the Arbitral Tribunal - Committee - Constituted - Orders - Issued.

AGRICULTURE AND COOPERATION (HORTI.) DEPARTMENT

G.O.Rt.No.820

Dt:1 -7-2008.

Read the following:-

1. G.O.Rt. No. 608, A&C(Horti.) Department, dt. 21.5.2008
2. From S.Venkata Reddy, Senior Counsel, letter dt.26.5.2008.

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ORDER:-

A Memorandum of Understanding was entered into with M/s.BHC Agro (India) Pvt. Ltd. on 29.1.2003 to implement the K-III Project in about 14,000 Acres of Agricultural Land of Western Chittoor District for a minimum period of 3 years initially and 10,000 acres in future to facilitate disseminating and promoting Israeli Technology under the K-III Project. M/s.BHC Agro (India) Pvt. Ltd. expressed its willingness to transfer Israel technology in the State of Andhra Pradesh and in furtherance thereof to undertake the Project under western part of Chittoor to facilitate the economic development of that region of Andhra Pradesh. A Similar Memorandum of Understanding for Integrated Agriculture Development for Rangareddy, Mahaboobnagar and Vizianagaram districts was also entered into with the above company for development of 1000 acres of land in each of the above district. The obligations of Government of Andhra Pradesh and those of M/s.BHC Agro (India) Pvt. Ltd. are mentioned in the Memorandum of Understandings. The amount being paid for K-III Project was Rs. 13, 75, 89, 128/-(Rupees Thirteen Crores Seventy Five Lakhs Eighty Nine Thousand and one hundred twenty eight only) and for the Integrated Agricultural Project according to the Memorandum of Understanding the amount being paid was Rs. 11, 39, 92, 011/-(Rupees Eleven Crores Thirty Nine Lakhs Ninety Two Thousand and Eleven only). In both the Memorandum of Understandings there is an Arbitration clause (9) to the effect that disputes between Government and the Company shall be referred to Arbitration Tribunal consisting of one member by each of the parties.

2. An amount of Rs .4, 48,85,173/- (Rupees Four Crores Forty Eight Lakhs Eighty five Thousand and One Hundred and Seventy Three only) and Rs. 2, 50, 09, 791/- (Rupees Two Crores Fifty Lakhs Nine Thousand and Seven Hundred Ninty one only) was paid and payment was stopped with effect from 30.4.2004 and that the total

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dues as on 31.12.2005 as claimed by M/s. BHC Agro India Pvt. Ltd. is Rs. 9, 54, 23, 902/- (Rupees Nine Crores Fifty Four Lakhs Twenty Three Thousand and Nine Hundred Two only) under K-III Project and Rs. 5, 55, 25,548/- (Rupees Five Crores Fifty Five Lakhs Twenty Five Thousand and Five Hundred Forty Eight only) as on 5.11.2004 pertaining to Integrated Agricultural Development Project (IADP) in Rangareddy, Mahaboobnagar and Vijayanagaram Districts. The BHC Agro India Pvt. Ltd. also claimed an amount Rs. 63, 77, 687 towards incentive compensation and Rs. 1, 97, 18, 617/- (One Crore Ninty Seven Lakhs and Eighteen Thousand and Six Hundred Seventeen only) towards compound interest on the unpaid amounts for the Arbitration Application No.49 of 2007 and an amount of Rs. 36, 97, 088/- (Rupees Thirty Six Lakhs Ninety Seven Lakhs and Eighty Eight only) towards incentive compensation and Rs. 1, 41, 91, 737/- (Rupees One Crore Forty One lakhs Ninety One Thounsand Seven Hundred Thirty Seven only) towards compound interest on the unpaid amounts for the Arbitration Application No. 50 of 2007.

3. The BHC Agro India Pvt. Ltd., has requested for payment of the above amounts and the matter was pending before the Government. In the mean while Justice Sri T.H.B.Chalapathi, Retd. Judge of Punjab & Haryana High Court was appointed as Commissioner of Inquiry to enquire into the alleged irregularities pertaining to Kuppam Project. During the course of enquiry, the above Commissioner of inquiry, informed that the M/s.BHC Company was over paid and that no amount would be released to them.

4. In the meanwhile the BHC Agro (India) Pvt. Ltd. filed Arbitration Application Nos. 49 & 50 of 2007 in the Hon'ble High Court of Andhra Pradesh for adjudicating the payment of dues to them and also interest that would have to be paid on the sum that may be awarded to the said company. The Hon'ble High Court of AP dt. 7.9.2007 in the judgment directed the Government to nominate the arbitrator in accordance of clause 9 of the Memorandum of Understanding within a period of three months Accordingly, Government have appointed Justice Sri D.Reddeppa Reddy (Retd.), High Court of AP as an Arbitrator from Government side for settlement of the disputes between the Government and M/s. BHC Agro(India) Pvt. Ltd. vide G.O.Ms.No.346, A&C Dept., dt. 27.12.2007. The said company has already nominated Justice Sri S.V. Maruthi (Retd.) as the Company's arbitrator and Justice Sri A.Laxmana Rao (Retd.) was chosen as Presiding Arbitrator by the two arbitrators for the said Arbitral Tribunal.

5. Subsequently for presenting the case before the Arbitral Tribunal, Government have appointed Sri S.Venkata Reddy, Senior Counsel on behalf of the Government as legal Counsel and four(4) other Junior Advocates to present the case in Arbitration Application Nos.49 & 50 of 2007, on behalf of the Government of Andhra Pradesh before the Arbitral Tribunal, as per the usual terms and conditions applicable to such cases prescribed by the Government.

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6. The Senior Counsel in his letter dated 26.5.2008 has requested to furnish a copy of the Rules made by the Government prescribing the usual terms and conditions applicable to such cases in so far as the Advocates appointed to assist the Senior Counsel are concerned. Further, during the Meeting with APC & Prl.Secy. to Govt.,ATM at his residence, the Senior Counsel has informed that, he would charge at 2% of the claim amount towards his fees which works out around Rs. 39.00(Rupees Thirty Nine Lakhs only). Besides he also informed that, he would charge 1/3rd of the above amount towards his Juniors' advocate fees which works out around Rs.13.00 (Rupees Thirteen Lakhs only).

7. There is no provision in the A.P. Law Officers(Appointment & Conditions of Service) Instructions, 2000 and in the A.P.Advocates Fees Rule, 1990, for payment of the above said fee as claimed by the Senior Advocate.

8. Government after careful examination decided to appoint a Committee Consisting of Principal Secretaries to Government to decide the fee to be paid to the Senior Counsel and his four Junior counsels after negotiating with the Senior Counsel.

9. Accordingly Government hereby constitute the Committee with the following officers for the above purpose:-

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| 1. APC & Prl.Secy.to Govt.,ATM.
A&C Department. | - Member/Convenor. |
| 2. Principal Secretary to Govt.
Rural Development Dept. | - Member. |
| 3. Principal Secretary to Govt.
Finance Department. | - Member |

10. The Committee is requested to submit its report on or before 15.7.2008, as the Counter claim petition is to be filed before 30.7.2008.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

DR.S.CHELLAPPA,
APC & PRL. SECRETARY TO GOVERNMENT, ATM.

To

The Principal Secretary to Government, Rural Development Department.

The Principal Secretary to Government, Finance Department..

Copy to:

The P.S. to M(Agri.& Horti.)

The P.S. to Spl.Secy. to CM.

The P.S. to APC & Prl.Secy. to Govt.,ATM.

The P.S. to Secretary to Govt, Law Department.

SC/SF.

//FORWARDED BY ORDER//

SECTION OFFICER